

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00873R

Parcel No. 181/00553-070-065

Patrick Leo,
Appellant,

vs.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 16, 2016. Patrick Leo was self-represented. Assistant Polk County Attorney Mark Taylor represented the Polk County Board of Review.

Leo is the owner of a residential, one-story dwelling located at 4319 NE Michael Court, Ankeny. Built in 2011, it has 1634 square feet of above-grade finish and 1250 square-feet of living-quarter quality basement finish with a walkout. It also has a three-car attached garage, open porch, a covered patio, and a deck. The site is 0.368 acres. (Ex. A).

The property's January 1, 2015, assessment was \$286,500, allocated as \$73,600 in land value and \$212,900 in improvement value. On his protest to the Board of Review, Leo claimed the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the protest. Leo then appealed to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b).

PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Inequity Claim

i. Applicable Law

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

A taxpayer may also show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.” *Id.* at 711.

The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The *Maxwell* equity analysis is done by comparing prior year sales (2014) to the current assessment (2015). Moreover, more than one comparable is necessary to prevail in an equity claim. *Montgomery Ward Dev. Corp. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996).

ii. Findings of Fact

Leo submitted a spreadsheet of properties to the Board of Review that he considered comparable to his for an equity analysis. (Exs. C & F, Certification). All of the properties are similar one-story style homes and have comparable, grade, year built, gross living area (GLA), and basement finish. However, the sales occurred between 2004 and 2015, and only one sold in 2014 and could be considered for an assessment/sales ratio analysis.

Leo also submitted the assessments of five vacant lots located on Tuscany Boulevard. (Certification). However, we do not consider vacant lots comparable to an improved site like the subject property. Even if we were to consider the vacant sites, none of them have recently sold and the *Maxwell* test cannot be developed.

Leo also submitted an appraisal of a neighboring property located at 4312 NE Michael Court. The appraisal was completed for financing purposes and prepared by Timothy Hill, Hill Appraisal Service, Ankeny. Hill concluded the market value for this property of \$259,000 as of April 2015. Leo asserts this property is very similar to his property; therefore, the conclusions of market value in the appraisal would reflect the market value of his property.

iii. Analysis

We note that some of Leo's testimony indicated a belief that his property's assessment exceeds its market value, which is an assertion that the property is assessed for more than authorized by law under section 441.37(1)(a)(1)(b). However, an overassessment claim was not raised to the Board of Review and is not properly before this Board.

Turning to Leo's equity claim, he has not made any attempt to show the assessor is not applying an assessing method uniformly. Further, we find there is insufficient evidence to complete the *Maxwell* analysis. He has not submitted adequate comparable properties with either a market value sale price from 2014 or a reliable estimate of their market value. Although Leo submitted evidence of the market value of one comparable property, more than one comparable is required to complete the *Maxwell* analysis and prevail on an equity claim.

For these reasons, we find Leo has failed to show the subject property is inequitably assessed.

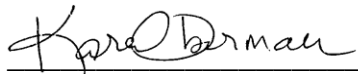
Order

Having concluded that Leo has not shown his property is inequitably assessed, PAAB ORDERS that the Polk County Board of Review's action is affirmed.

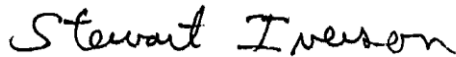
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial

review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 15th day of September, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

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Mark Taylor by eFile